



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : Neubauer & Ziegler ) Art Unit: 1648  
U.S. Appln. No. : 10/624,149 ) Examiner: Salimi, Ali Reza  
Confirmation No. : 5659  
U.S. Filing Date : July 21, 2003  
Title of Invention : gM-NEGATIVE EHV-MUTANTS WITHOUT HETEROLOGOUS  
ELEMENTS  
Attny. Docket No.: 1/1372

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE**

Sir:

This is in response to a communication from the examiner in charge of the subject application, which communication was mailed on August 4, 2005.

In the communication mailed August 4<sup>th</sup>, the Examiner has noted that claims 3 and 13 through 31 are withdrawn from consideration as being drawn to non-elected subject matter.

The Examiner rejects claim 12 under 35 U.S.C. §112 as non-enabled. Although at page 14 of the specification it is stated that the RacH-based recombinant variant isolate HΔgM-w was deposited at the Centre for Applied Microbiology and Research and European Collection of Cell Cultures in Salisbury, England, U.K. in accordance with the terms of the Budapest Treaty, the Examiner has requested that the attorney of record make such statement. Accordingly, applicants' attorney hereby states that such deposit was made at the depository identified in Salisbury, England, U.K., that the accession number is 02101663 and that the deposit was made under the terms of the Budapest Treaty. Additionally, applicants' attorney hereby states that all restrictions imposed on the availability to the public of the deposited material will be irrevocably removed upon the granting of a United States patent.